

AMERICAN GROWERS INSURANCE COMPANY,)	AGBCA Nos. 99-136-F
(Coastal Bend I & II))	99-137-F
)	
Appellant)	
)	
Representing the Appellant:)	
)	
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)	
Representing the Government:)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

November 21, 2002

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge POLLACK.

These appeals, dated February 2, 1999, arise out of a 1995 Standard Reinsurance Agreement (SRA) between the Federal Crop Insurance Corporation (FCIC) and American Growers Insurance Company (American Growers or Appellant). The appeals were taken from separate final administrative determinations of the Deputy Administrator, Office of Risk Compliance, Risk Management Agency, U. S. Department of Agriculture. Each administrative determination concerned Compliance Case No. DA-RI00-753, however; each assessed different obligations upon the Appellant. In each case, American Growers appealed from what it characterized as wrongful assessment by FCIC of indemnity overpayments on multi-peril crop insurance policies issued by American Growers to various farmers in the Coastal Bend region of Texas for the 1996 insurance year. The Board docketed the claim for \$541,029, arising out of the determination of December 21, 1998, as AGBCA No. 99-136-F and docketed the claim for \$394,593, arising out of the determination of October 27, 1998, as AGBCA No. 99-137-F. At issue in these appeals was whether

the insurer had followed FCIC approved policies and procedures in servicing various cotton farmers-claims.

The Board has jurisdiction over this timely-filed appeal, under 7 CFR ' 24.4(b) and ' 400.169(d).

Pleadings and an Appeal File were filed in a timely manner. On November 24, 1999, the Board and parties held a telephone conference which addressed a parallel proceeding in the matter of Rain & Hail Insurance Services, AGBCA Nos. 98-195-F, 98-196-F, 98-197-F and 99-125-F. Those appeals had been scheduled for hearing and dealt with many of the same issues. Counsel for both parties agreed that the preferred approach would be to place the American Growers appeals in a suspense status, pending the outcome of the Rain and Hail Insurance appeals. The Board then placed the appeals in a suspend status.

On July 26, 2001, the Board issued a decision in the Rain and Hail appeals. Rain & Hail Insurance Services, AGBCA Nos. 98-195-F, 98-196-F, 98-197-F, 99-125-F, 01-2 BCA & 31,534. Thereafter, the Board conducted a telephone conference with the parties and at that time was advised that Appellant wished to continue to pursue the two Coastal Bend appeals. Appellant further requested that a hearing be held. The suspension was lifted and the parties proceeded with additional discovery. Due to schedule conflicts of counsel as well as schedule problems for the various farmers, the hearing was finally scheduled for October 2002. Between the time of lifting the suspension and the proposed trial date, the Board and parties spoke on several occasions. Just prior to the hearing date, the parties notified the Board that they had reached a settlement. Under cover letter of October 11, 2002, the parties filed a Joint Motion to Dismiss calling for the appeals to be dismissed with prejudice. The Motion not only called for dismissal of the above two captioned appeals but also called for dismissal of AGBCA No. 2002-125-F, a separate compliance case.

DECISION

In accordance with the motion of the parties, the appeals are dismissed with prejudice.

HOWARD A. POLLACK

Administrative Judge

Concurring:

JOSEPH A. VERGILIO

Administrative Judge

ANNE W. WESTBROOK

Administrative Judge

**Issued at Washington, D. C.
November 21, 2002**